



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/463,033	07/16/2000	GAVIN ROBERT FERRIS	P/2985-22	5787

2352 7590 06/17/2005

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

CHUNG, JASON J

ART UNIT PAPER NUMBER

2617

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/463,033	Applicant(s) FERRIS ET AL.	
	Examiner Jason J. Chung	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 33-42 have been considered but are moot in view of the new ground(s) of rejection.

Specification

The abstract of the disclosure is objected to because the abstract contains more than one paragraph. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 33-35, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington (US Patent # 5,734,413) in view of Wharton (US Patent # 5,831,664).

Regarding claim 33, Lappington discloses an apparatus 32 for controlling the display of broadcast programming on a program display appliance 30 (column 8, line 62-column 9, line 9).

Lappington discloses a handheld device 32 including (i) a receiver for receipt of wireless incoming data transmissions from a communications network, the communications network being independent from that used for transmission of the broadcast programming (the TV signal is transmitted from a satellite and/or cable network whereas the interactive data is received from

Art Unit: 2611

both said satellite and/or cable network and subsequently the IR network, which reads on independent: column 8, line 52-column 9, line 9), (ii) a display 398 (column 20, lines 1-26) for visual presentation of the incoming data, said visual presentation having content related to the content of the displayed broadcast programming and being timed in relation to the time of the displayed broadcast programming (live events: column 10, lines 27-40; column 20, lines 63-67), (iii) a transmitter for sending wireless outgoing data transmissions to a communication network (column 9, lines 10-27), and (iv) a plurality of tactilely operated controls 394 to permit the device to interact with the display appliance 30 and the communication network (column 20, lines 27-50; interact with network: column 8, line 52-column 9, line 9).

Although Lappington discloses a transmitter for sending wireless outgoing data transmissions to a communication network and a display appliance 30, Lappington fails to disclose sending the outgoing data to THE network and the device to interact with the display appliance. In analogous art, Wharton discloses the device 12 send wireless signals to THE network (column 3, line 25-column 4, line 28) and device 12 interacts with display appliance 14 (column 7, lines 14-25) for the benefit of communicating with the server and permitting the user to select television channels. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lappington to have the device send wireless signals to THE network and the device interacts with display appliance as taught by Wharton for the benefit of communicating with the server and permitting the user to select television channels.

Regarding claim 34, Lappington discloses the visual presentation on the handheld device and the interaction of the handheld device with the communication network may occur in real

Art Unit: 2611

time or near real time relative to the time of the displayed broadcast programming (live events: column 10, lines 27-40; column 20, lines 63-67).

Regarding claim 35, Lappington in view of Wharton discloses the display appliance is a television and the handheld device is a television remote control (column 7, lines 14-25).

Regarding claim 39, the limitations in claim 39 have been met in claim 33 rejection.

Regarding claim 40, the limitations in claim 40 have been met in claim 33 rejection.

Wharton discloses operating an actuator on the device to initiate the outgoing data transmission to the communication network (column 3, line 25-column 4, line 28).

Regarding claim 41, Lappington in view of Wharton discloses the step of operating an actuator on the device to control an appliance (Wharton: column 3, line 25-column 4, line 28; column 7, lines 14-25) which receives the broadcast programming (Lappington: broadcast programming: column 8, lines 4-23).

Regarding claim 42, Lappington in view of Wharton discloses displaying both the visual presentation of the incoming data and the broadcast programming on the portable handheld device (Wharton: column 3, line 25-column 4, line 28).

2. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Wharton in further view of Goldstein (US Patent # 5,410,326).

Regarding claim 36, although Lappington in view of Wharton discloses the remote control also controls the operation of media presentation appliances (TV), Lappington in view of Wharton fails to disclose a plurality of media presentation appliances. In analogous art, Goldstein discloses the remote control 5 also controls the operation of a plurality of media presentation appliances (column 7, lines 4-22) for the benefit of controlling a variety of

Art Unit: 2611

appliances. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lappington in view of Wharton to have the remote control also controls the operation of a plurality of media presentation appliances as taught by Goldstein for the benefit of controlling a variety of appliances.

3. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Wharton in further view of Lomet (US Patent # 5,806,065).

Regarding claim 37, the limitations in claim 37 have been met in claim 33 rejection. Although Lappington in view of Wharton discloses a wireless network (Lappington: satellite receiver and wireless transmission to remote control: claim 33 rejection), Lappington in view of Wharton fails to disclose a WAN. In analogous art, Lomet discloses a WAN (column 9, lines 27-50) for the benefit of being compliant with many real world implementations. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lappington in view of Wharton to have a WAN as taught by Lomet for the benefit of being compliant with a real world implementation.

Regarding claim 38, Lappington discloses the device compares timing cue points in the incoming data to a real time clock to time the device displays (live events: column 10, lines 27-40; column 20, lines 63-67).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2611


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (571) 272-7292. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJC



VIVEK SRIVASTAVA
PRIMARY EXAMINER